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Attorneys for Plaintiff Abhinav Bhatnagar

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ABHINAV BHATNAGAR,  
Plaintiff,

vs.

JASON INGRASSIA, individually and in  
his official capacity; COUNTY OF  
CONTRA COSTA; and CITY OF  
SAN RAMON.

Defendants.

)  
) Case No.: Case No. CV07-02669 CRB  
)

) **AFFIDAVIT OF RICHARD HA**  
) **IN SUPPORT OF PLAINTIFF'S**  
) **MOTION FOR PROTECTIVE ORDER**  
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I, RICHARD HA, state under penalty of perjury as follows:

1. On May 20, 2006, I was working at the Valero gas station in San Ramon when the Plaintiff Abhinav Bhatnagar was arrested. I witnessed the circumstances under which Mr. Bhatnagar was arrested. I have been served with a deposition subpoena in this action and have been informed that Defendant Jason Ingrassia intends to be

present for my deposition. I submit this affidavit in support of Mr. Bhatnagar's motion for a protective order to exclude Defendant Ingrassia from my deposition.

2. On May 20, 2006, Mr. Bhatnagar was parked at gas pump #2 when I saw him walking towards the cash register to pay for gas. I saw a very drunk Caucasian woman approach Mr. Bhatnagar and ask him for money.

3. Several minutes later, a police car pulled in and parked at gas pump #3, on the other side of the gas pumps from where Mr. Bhatnagar was parked. The police car was not parked directly in front of or behind Mr. Bhatnagar's vehicle. The police car did not have its emergency lights turned on at any time that evening.

4. One of the police officers approached Mr. Bhatnagar and started questioning him about whether he had been drinking. I later learned that the name of this police officer is Jason Ingrassia. Mr. Bhatnagar was standing outside of his car when Officer Ingrassia first started questioning Mr. Bhatnagar. I saw Officer Ingrassia conduct a few tests on Mr. Bhatnagar, and then he arrested Mr. Bhatnagar.

5. I thought it was strange that the police did not question the Caucasian woman, who appeared to be very drunk, and instead questioned Mr. Bhatnagar, who did not appear drunk to me.

6. I was, and continue to be, afraid to be a witness for Mr. Bhatnagar because I fear continued harassment and retaliation by the police.

7. After May 20, 2006, I felt threatened and intimidated by an increased presence of the police at the gas station where I worked. In fact, I noticed one particular officer, who looked very similar to Officer Ingrassia, frequently drive by the gas station

and give me threatening looks. As a result, I was afraid to testify as a witness for Mr. Bhatnagar out of concern for my own safety, particularly because I live in San Ramon.

8. Despite my fears, I testified about the above-referenced facts in a hearing before the Department of Motor Vehicles (“DMV”) on October 11, 2006. I was nervous and scared to be a witness, but I thought it was important for me to tell the truth about what I saw on the night of May 20, 2006.

9. Officer Ingrassia was not present during my testimony on October 11, 2006. I do not think I would have been willing to testify at that time in the officer’s presence.

10. With the assistance of a Vietnamese interpreter, I have since reviewed the testimony I gave on October 11, 2006. I confirm that the content of my testimony before the DMV is true and accurate.

11. On October 11, 2006, I testified on my own free will and not under any undue pressure, influence, or duress. I affirm that my testimony was not given in exchange for anything received from or promised by Mr. Bhatnagar or his counsel.

12. I received a subpoena to appear as a witness in Mr. Bhatnagar’s criminal case on October 16, 2006. I did not appear as a witness on October 16, 2006 because I was afraid to testify in court against Officer Ingrassia.

13. Despite concerns for my safety, I eventually decided that it was important for me to testify in court and tell the truth about what happened on May 20, 2006. On November 27, 2006, I testified as a witness in the suppression hearing for Mr. Bhatnagar’s criminal case.

14. Officer Ingrassia was not present during my testimony on November 27, 2006. I do not think I would have been willing to testify at that time in the officer's presence.

15. With the assistance of a Vietnamese interpreter, I have reviewed the testimony I gave on November 27, 2006. I confirm that the content of my testimony that day is true and accurate.

16. On November 27, 2006, I testified on my own free will and not under any undue pressure, influence, or duress. I affirm that my testimony was not given in exchange for anything received from or promised by Mr. Bhatnagar or his counsel.

17. On or about May 22, 2007, a police officer who looked like Officer Ingrassia came to gas station during my shift and looked at me in a threatening manner. I felt intimidated by this officer and I felt that he knew I was a witness for Mr. Bhatnagar.

18. On or about May 23, 2007, two police officers pulled up to the gas station during my shift. One of the officers asked me my name and how long I had been working at the gas station. The other officer stayed in the car and did not speak to me, but he gave me very threatening looks. That officer looked like Officer Ingrassia and he was the same officer and who looked at me in a threatening manner the night before.

19. On or about May 28, 2007, a police officer came into the gas station and gave me threatening looks. I was very scared by the increasing and intimidating presence of the police at my workplace.

20. On May 29, 2007, a police officer came to my home in San Ramon. When my wife answered the door, the officer asked if she was okay. The officer then asked if her husband was home. When I arrived at the door, the officer asked, "Are you

Richard?” and then he asked if I had called 911. I told the officer that I did not call 911 and then he asked if everything was alright. After I told him that everything was alright, the officer left. Contrary to that officer’s representation, nobody from my home called 911 that evening.

21. I believe that the officer who came to my house on May 29, 2007 resembled Officer Ingrassia because he looked like the person in photographs I have seen of Officer Ingrassia.

22. I also believe that, at the very least, Officer Ingrassia is responsible for this incident because this encounter occurred around the same time that I was feeling harassed by the police at work, and because this incident occurred shortly after Mr. Bhatnagar filed his complaint in this action.

23. I was very scared that this officer came to my home and felt very concerned for my safety if I continued to be involved in this case.

24. From June to August of 2007, many police officers came by the gas station more often than normal during my shift and looked at me in an unfriendly manner. For instance, in July of 2007, a police officer who looked like Officer Ingrassia came to the gas station with two other officers during my shift. One of the officers asked me what my name was and did not respond after I told him my name. All three officers stared at me and looked at me in an intimidating manner.

25. In August of 2007, I was served with a subpoena to testify in another case involving Officer Ingrassia, in *People v. Richard Smith*. I was afraid to testify against this officer in yet another case so I did not comply with that subpoena.

26. At the end of August 2007, my employment at the Valero gas station terminated.

27. In recent weeks, I have noticed an increased presence of police patrol cars on the street where I live. For instance, last week, I watched a police patrol car drive back and forth past my house four times. I found this very unusual because I do not normally see a lot of police cars in my neighborhood.

28. For well over a year now, I have been subjected to repeated harassment and retaliation by the police because of my involvement as a witness to Mr. Bhatnagar's arrest. I have been very reluctant to be involved in this case because I am afraid of further harassment and retaliation by Officer Ingrassia and other police officers and as a result, I am concerned for my safety.

29. I have been very reluctant to report the ongoing harassment and retaliation that I have experienced to the police or anyone else, out of fear that the situation would worsen if I reported anything.

30. I understand that the lawyer who represents the arresting officer is requesting to take my deposition. I also understand that Officer Ingrassia wants to be present in the room during my testimony.

31. Because of my past encounters with Officer Ingrassia, I am afraid to have my deposition taken in his presence. I am concerned that I will feel intimidated by this officer's presence during my deposition and will be too afraid to testify about what I saw on May 20, 2006. For this reason, I ask the court to allow my deposition to be taken without the officer present.

32. I feel it is my duty be a witness in this case and to tell the truth about what I saw on May 20, 2006. For this reason, I seek the court's protection and request an order requiring Officer Ingrassia to stop harassing and retaliating against me.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November \_\_\_\_, 2007 in \_\_\_\_\_, California.

/s/ Richard Ha  
RICHARD HA